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Paper No. 5

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**JUL 17 2002**

In re Application of  
Perricone  
Application No. 10/085,864  
Filed: February 27, 2002  
Attorney Docket No. NP-22 (acne)

**OFFICE OF PETITIONS  
DECISION GRANTING  
PETITION**

This is a decision on the petition filed April 8, 2002, to establish that page 10 of the specification was part of the originally filed application.

On February 27, 2002, the application was filed.

On March 21, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of February 27, 2002, and advising applicants that page 10 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 10 was deposited on February 27, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "specification (28) pgs" on February 27, 2002.<sup>1</sup> Petitioner has also submitted a copy of the missing documentation- page 10 of the specification.

Upon review of the record, page 10, deposited on February 27, 2002, has not been located. However, the evidence is convincing that the application papers deposited on February 27, 2002, included page 10, and that page 10 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 10 submitted with the petition will be used for examination purposes.

The petition fee will be credited to petitioner's deposit account.

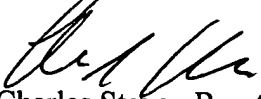
The Notice mailed March 21, 2002 was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 27, 2002, using the application papers filed on February 27, 2002, and the copy of page 10 of the specification filed on April 8, 2002.

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<sup>1</sup> Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



Charles Steven Brantley  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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1 Date of Request: <u>10/08/5,864</u>		2 Serial/Patent # <u>10/085,864</u>									
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